

## **Board Administration and Regulatory Coordination Unit**

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### **Division 3. Air Resources Board**

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### **Chapter 1. Air Resources Board**

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### **Subchapter 1.25. Administrative Procedures–Hearings**

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### **Article 4. Administrative Hearing Procedures for Review of Citations**

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### **Subarticle 10. Decisions after Hearing**

#### **§ 60075.38. Default Order.**

(a) A party may be found to be in default upon failure to appear at hearing without good cause.

(1) No finding of default shall be made against the citee unless the staff of the state board presents sufficient evidence to establish a prima facie showing that the citation was properly issued and the penalty appropriate.

(2) Default by the complainant shall result in dismissal of the citation with prejudice.

(b) If a default against a citee in a compliant proceeding occurs, the state board, within 10 days, shall present written evidence supported by affidavits or declarations, substantiating the proposed penalty set forth in the complaint.

(c) If the hearing officer determines that a default has occurred, he or she shall issue a default order against the defaulting party. Except as provided in section 60075.17(e), this order shall constitute a decision or order after hearing for purposes of section 60075.40 of these rules.

(d) Any proceeding may be reinstated by the hearing officer upon a showing of good cause that contains sufficient facts to show or establish a reasonable basis for the failure to appear at the hearing. The request for reinstatement shall be made by the defaulting party within 30 days of service of the default order pursuant to section 60075.38(d) of these rules.

NOTE: Authority cited: Sections 39600, 39601, 43028, 43031(a) and 44011.6(m), Health and Safety Code. Reference: *Mathews v. Eldridge*, 424 U.S. 319 (1976); and Sections 43028, 43031(a) and 44011.6, Health and Safety Code.

#### **REFERENCE**